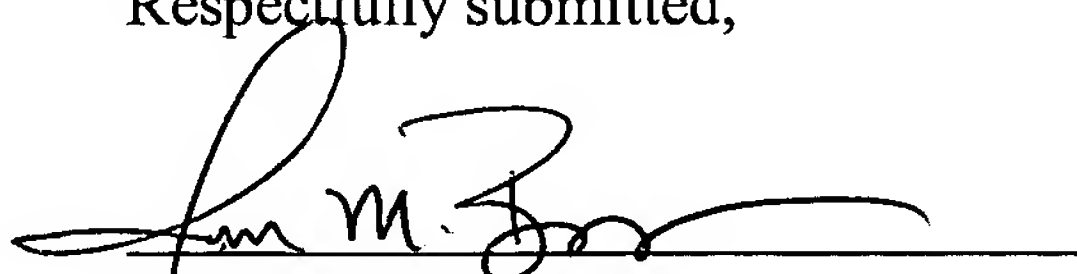# REMARKS

The present application includes pending claims 1-8, 10-20, and 22-102. Claims 1-8, 10-20, and 22-24 stand rejected, while claims 25-102 have been withdrawn from consideration. By this Amendment, claims 1-5, and 23-102 have been cancelled without prejudice or disclaimer to the subject matter therein. Applicant respectfully submits that pending claims 16-20, and 22 define patentable subject matter.

Claims 16-20, and 22 stand rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent No. 6,549,937 ("Auerbach"). Applicant has submitted a Declaration under 37 CFR 1.131 in order to overcome Auerbach. The Declaration has been signed by PKT Technologies, LLC, the current assignee of the present application due to the fact that it has proven "impossible to produce the declaration of the inventor." *See* Manual of Patent Examining Procedure (MPEP) at § 715.04. PKT Technologies, through its attorneys, has attempted to contact the inventor, Kevin Donovan, on numerous occasions over several months. After assignee's representatives made initial contact with Mr. Donovan, he refused to respond to further inquires made by a variety of means. Thus, pursuant to MPEP § 715.04, PKT Technologies, the assignee of the present application, has signed the enclosed Declaration.

Applicant respectfully submits that the pending claims of the present application define patentable subject matter, at least for the reason discussed above. If the Examiner has any questions or Applicant can be of any assistance, the Examiner is invited to contact the undersigned. No fee is believed due with respect to this Response. The Commissioner, however, is authorized to charge any necessary fees or credit any overpayment to Account No. 13-0017.

Respectfully submitted,

Date: <u>November 15, 2004</u>

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